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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,303	02/17/2004	Masaaki Oka	450137-05004	9718

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EXAMINER

LEE, JOHN W

ART UNIT	PAPER NUMBER
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2624

MAIL DATE	DELIVERY MODE
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01/04/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/780,303

Applicant(s)

OKA, MASA AKI

Examiner

John Wahnkyo Lee

Art Unit

2624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 3 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-2, 4-19, and 21-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. The response received on 24 October 2007 has been placed in the file and was considered by the examiner. An action on the merits follows.

Response to Amendment

2. The applicant's amendments filed on 18 October 2007 have been fully considered.

Response to Arguments

3. Applicant's arguments with respect to claims 1-2, 4-19, and 21-22 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claim 21 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 21 is drawn to functional descriptive material NOT claimed as residing on a computer readable medium. MPEP 2106.IV.B.1(a) (Functional Descriptive Material) states:

"Data structures not claimed as embodied in a computer-readable medium are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer."

"Such claimed data structures do not define any structural or functional interrelationships between the data structure and other claimed aspects of the invention which permit the data structure's functionality to be realized."

Claim 21, while defining a computer program product, does not define a "computer-readable medium" and is thus non-statutory for that reasons. A computer program product can range from paper on which the program is written, to a program simply contemplated and memorized by a person. The examiner suggests amending the claim to embody the program on "computer-readable medium" in order to make the claim statutory.

"In contrast, a claimed computer-readable medium encoded with the data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory." - MPEP 2106.IV.B.1(a)

The examiner suggests that 35 USC § 101 can be resolved if the applicant replaces "a computer program product" with "a computer readable medium."

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-2, 5-7, and 18-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Satoh et al (EP 1117074 A2) in view of Yonezawa et al. (US 2002/0075286).

Regarding claim 1, Satoh discloses an image generating system (abstract; Figs. 2, 4, 14, and 17), comprising: a database (Fig. 1-104, "AR Game Apparatus" and Fig. 7) which stores (Fig. 7-703, "RAM"; paragraph [0093]) first shape data which represents a three dimensional shape of a first area including at least a part of an object area in a real world (Fig. 1-105; paragraphs [0037] and [0038], "real object"); a camera which shoots a second area including at least a part of the object area (Fig. 2-103, Fig. 4-103, Fig. 14-103, and Fig. 17-103; paragraphs [0036]-[0037], [0046], and [0100], "actually sensed video") and an image generating apparatus which generates an image of the object area using a picture shot by the camera and the first shape data (Fig. 2-104, Fig. 4-104, Fig. 14-104, and Fig. 17-104; paragraph [0037], "AR game apparatus"), wherein said image generating apparatus includes: a data acquiring unit which acquires the first shape data from said database (Fig. 2-201, Fig. 4-201, Fig. 14-201, and Fig. 17-201; paragraph [0063], "game state manager"); a picture acquiring unit which acquires the picture from said camera (FIG. 8-S803; paragraphs [0036], [0046], and [0071]); a first generating unit which generates an image of the first area by setting a predetermined viewpoint and a view direction and rendering the first shape data (Fig. 2-202 and 212, Fig. 4-202 and 212, Fig. 14-202 and 212, and Fig. 17-202 and 212; paragraphs [0042], [0045], and [0048], "Objective viewpoint video generator" and "Subjective viewpoint video generator"); a second generating unit which generates an image of the second

area when viewed from the viewpoint toward the view direction by using the picture (paragraphs [0044] and [0046]); and a compositing unit which composites the image of the first area with the image of the second area to generate the image of the object area (Fig. 2-203, Fig. 4-203, Fig. 14-203, and Fig. 17-203; paragraphs [0046] and [0084]; claim 1 "Objective viewpoint video composition unit"). However, Satoh does not disclose the last claim limitation of claim 1. Instead of Satoh, Yonezawa does. Yonezawa discloses compositing unit generates the image of the object area by complementing an area that is not shot by the camera with the image of the first area generated from the first shape data (paragraphs [0046]-[0047] and [0049]-[0050]).

It would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made to use Yonezawa's invention in Satoh's invention to provide a more real composite image as suggested by Yonezawa (paragraph [0006]).

Regarding claim 2, Satoh further discloses an image generating system (abstract; Figs. 2, 4, 14, and 17) wherein: said image generating system includes a plurality of cameras located at a plurality of positions (Fig. 9; paragraphs [0096]-[0102]); said image generating apparatus further comprises a calculating unit which calculates second shape data which represents a three dimensional shape of the second area using a plurality of the pictures acquired from said plurality of cameras (paragraphs [0056]-[0058]); said second generating unit sets the viewpoint and the view direction and renders the second shape data to generate the image of the second area (paragraphs [0035], [0044] and [0046]).

Regarding claim 5, Satoh further discloses an image generating system (abstract; Figs.2, 4, 14, and 17) wherein said database stores the first shape data obtained by modeling an area which does not change in a short term in the object area (paragraphs [0007]-[0009], [0042]-[0043], [0045], and [0063]).

Regarding claim 6, Satoh further discloses an image generating system (abstract; Figs.2, 4, 14, and 17) wherein said database stores the first shape data obtained by modeling an area which does not change in a short term in the object area (paragraphs [0007]-[0009], [0042]-[0043], [0045], and [0063]).

Regarding claim 7, Satoh further discloses an image generating system (abstract; Figs.2, 4, 14, and 17) wherein said database stores the first shape data obtained by modeling an area which does not change in a short term in the object area (paragraphs [0007]-[0009], [0042]-[0043], [0045], and [0063]).

Regarding claim 18, Satoh discloses an image generating apparatus (abstract; Figs. 2, 4, 14, and 17), comprising: a data acquiring unit which acquires first shape data which represents a three dimensional shape of a first area including at least one part of an object area in a real world (Fig. 1-105; paragraphs [0037] and [0038], "real object") from a database (Fig. 2-201, Fig. 4-201, Fig. 14-201, and Fig. 17-201; paragraph [0063], "game state manager") which stores the first shape data (paragraphs [0035] and [0063], "virtual objects"); a picture acquiring unit which acquires a picture of a second area including at least one part of the object area shot (Fig. 2-103, Fig. 4-103, Fig. 14-103, and Fig. 17-103; paragraphs [0036]-[0037], [0046], and [0100], "actually sensed video") by a plurality of cameras located at a plurality of positions from the cameras

(Fig. 9; paragraphs [0096]-[0102]); a first generating unit which generates an image of the first area by setting a predetermined viewpoint and a view direction and rendering the first shape data (Fig. 2-202 and 212, Fig. 4-202 and 212, Fig. 14-202 and 212, and Fig. 17-202 and 212; paragraphs [0042], [0045], and [0048], "Objective viewpoint video generator" and "Subjective viewpoint video generator"); a second generating unit which generates an image of the second area when viewed from the viewpoint toward the view direction by using the picture shot (paragraphs [0044] and [0046]); and a compositing unit which composites the image of the first area with the image of the second area to generate the image of the object area (Fig. 2-203, Fig. 4-203, Fig. 14-203, and Fig. 17-203; paragraphs [0046] and [0084]; claim 1 "Objective viewpoint video composition unit"). However, Satoh does not disclose the last claim limitation of claim 18. Instead of Satoh, Yonezawa does. Yonezawa discloses compositing unit generates the image of the object area by complementing an area that is not shot by the camera with the image of the first area generated from the first shape data (paragraphs [0046]-[0047] and [0049]-[0050]).

It would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made to use Yonezawa's invention in Satoh's invention to provide a more real composite image as suggested by Yonezawa (paragraph [0006]).

Regarding claim 19, claim 19 is analogous and corresponds to claim 18. See rejection of claim 18 for further explanation.

Regarding claim 21, Satoh discloses a program executable by a computer (paragraphs [0061]-[0062]; claims 19-27). Moreover, claim 21 is analogous and corresponds to claim 18. See rejection of claim 18 for further explanation.

Regarding claim 22, Satoh discloses a computer-readable recording medium which stores a program executable by a computer (paragraphs [0061]-[0063]; claims 19-27). Moreover, claim 22 is analogous and corresponds to claim 18. See rejection of claim 18 for further explanation.

8. Claims 4 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Satoh et al (EP 1117074 A2) in view of Yonezawa et al. (US 2002/0075286), and further in view of Anabuki et al. (US 6,633,304).

Regarding claim 4, Satoh and Yonezawa disclose all the previous claim limitations except the claim limitation specified in claim 4. However, Anabuki discloses second generating unit renders the area which is not represented by the second shape data with a transparent color when rendering the second shape data (col.7, lines 19-25); said compositing unit generates the image of the object area by overwriting the image of the second area with the image of the first area (col. 2, lines 16-24).

It would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made to use Yonezawa's invention and Anabuki's invention in Satoh's invention to provide a mixed reality presentation apparatus and control method suggested by Anabuki (col. 2, lines 16-20).

Regarding claim 8, Satoh further discloses an image generating system (abstract; Figs.2, 4, 14, and 17) wherein said database stores the first shape data

obtained by modeling an area which does not change in a short term in the object area (paragraphs [0007]-[0009], [0042]-[0043], [0045], and [0063]).

9. Claims 9-11, and 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Satoh et al (EP 1117074 A2) in view of Yonezawa et al. (US 2002/0075286), and further in view of Ikeuchi ("Modeling from Reality").

Regarding claim 9, Satoh and Yonezawa disclose all the previous claim limitations except the claim limitation specified in claim 9. However, Ikeuchi teaches a database stores first color data which represents a color of the first area (section 3); said image generating apparatus further includes a lighting calculating unit which calculates a situation of a lighting in the picture shot by comparing the first color data acquired from said database with color data of the picture shot (sections 3.1, 3.2, 4, 4.1, 4.2, and 4.3).

It would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made to use Yonezawa's invention and Ikeuchi's method in Satoh's invention to effectively use for synthesizing realistic object images as suggested by Ikeuchi (section 6).

Regarding claim 10, Ikeuchi further teaches a database stores first color data which represents a color of the first area (section 3); said image generating apparatus further includes a lighting calculating unit which calculates a situation of a lighting in the picture shot by comparing the first color data acquired from said database with color data of the picture shot (sections 3.1, 3.2, 4, 4.1, 4.2, and 4.3).

Regarding claim 11, Ikeuchi further teaches a database stores first color data which represents a color of the first area (section 3); said image generating apparatus further includes a lighting calculating unit which calculates a situation of a lighting in the picture shot by comparing the first color data acquired from said database with color data of the picture shot (sections 3.1, 3.2, 4, 4.1, 4.2, and 4.3).

Regarding claim 13, Ikeuchi further teaches a database stores first color data which represents a color of the first area (section 3); said image generating apparatus further includes a lighting calculating unit which calculates a situation of a lighting in the picture shot by comparing the first color data acquired from said database with color data of the picture shot (sections 3.1, 3.2, 4, 4.1, 4.2, and 4.3).

Regarding claim 14, Ikeuchi further teaches first generating unit adds an effect of lighting similar to the lighting in the picture shot to the image of the first area in consideration of the situation of the lighting (sections 3.1, 3.2, 4, 4.1, 4.2, and 4.3).

Regarding claim 15, Ikeuchi further teaches first generating unit adds a predetermined effect of lighting to the image of the first area (sections 3.1, 3.2, 4, 4.1, 4.2, and 4.3); said second generating unit adds the predetermined effect of lighting to the image of the second area, after once removing the effect of lighting from the image of the second area (sections 3.1, 3.2, 4, 4.1, 4.2, and 4.3).

10. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Satoh et al (EP 1117074 A2) in view of Yonezawa et al. (US 2002/0075286), and further in view of Anabuki et al. (US 6,633,304) and Ikeuchi ("Modeling from Reality").

Regarding claim 12, Satoh, Yonezawa, and Anabuki disclose all the previous claim limitations except the claim limitation specified in claim 12. However, Ikeuchi teaches a database stores first color data which represents a color of the first area (section 3); said image generating apparatus further includes a lighting calculating unit which calculates a situation of a lighting in the picture shot by comparing the first color data acquired from said database with color data of the picture shot (sections 3.1, 3.2, 4, 4.1, 4.2, and 4.3).

It would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made to use Yonezawa's invention, Anabuki's invention, and Ikeuchi's method in Satoh's invention to effectively use for synthesizing realistic object images as suggested by Ikeuchi (section 6).

11. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Satoh et al (EP 1117074 A2) in view of Yonezawa et al. (US 2002/0075286), and further in view of Kondo (US 6,812,924) and Sawada (US 5,844,625).

Regarding claim 16, Satoh and Yonezawa disclose all the previous claim limitations, including the image generating system (abstract; Figs. 2, 4, 14, and 17), a database storing a plurality of the first shape data corresponding to the object areas of a plurality of times (paragraph [0063]), and the image generating apparatus (Fig. 2-104, Fig. 4-104, Fig. 14-104, and Fig. 17-104; paragraph [0037], "AR game apparatus") disclosed by Satoh, except the other claim limitations of claim 16. However, Kondo discloses a first selecting unit which selects the first shape data to be acquired by the data acquiring unit among the plurality of the first shape data stored in said database

(Figs. 24 and 25; dol. 10, lines 18-26; col. 11, lines 20-29; claim 7). Sawada discloses storing the picture shot(col. 2, lines 43-49, col. 5, lines 28-37) and a second selecting unit which selects the picture shot to be acquired by the picture acquiring unit among the pictures stored in said recording apparatus (col. 5, lines 64-67; col. 6, lines 1-6).

It would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made to use Yonezawa's invention, Kondo's invention, and Sawada's invention in Satoh's invention to provide a an apparatus for obtaining shape data (Kondo, col. 1, lines 48-50) and a picture processing apparatus (Sawada, col. 2, lines 20-21).

Regarding claim 17, Yonezawa further discloses second selecting unit selects the first shape data corresponding to the time when the picture selected by said first selecting unit was shot (paragraphs [0098]-[0099], "synchronization").

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Wahnkyo Lee whose telephone number is (571) 272-9554. The examiner can normally be reached on Monday - Friday (Alt.) 7:30 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jingge Wu can be reached on (571) 272-7429. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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SUPERVISORY/PATENT EXAMINER